

Message Text

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60
ORIGIN OES-05

INFO OCT-01 EUR-12 ISO-00 COME-00 EB-07 SAJ-01 L-02 IO-10

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DRAFTED BY OES/SCI/SEP:WAROOT:GEM

APPROVED BY OES/SCI/SEP:WAROOT

COMMERCE/PATENT OFFICE:SENGLE

EUR/SOV:RPARDON

EB/CBA/BP:HWINTER

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R 211755Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

UNCLAS STATE 090822

E.O. 11652: N/A

TAGS: TGEN, UR

SUBJECT: S&T AGREEMENT: INTELLECTUAL PROPERTY

REF: STATE 85937

FOR SCICOUNS

JOHNSON LETTER TO ARTEM'YEV BEING POUCHED. MAIN
SUBSTANTIVE POINTS OF LETTER AND COMPLETE TEXT OF US
DRAFT IMPLEMENTING PROCEDURES REPEATED BELOW FOR IMMEDIATE
EMBASSY TRANSMITTAL TO SOVIETS SO THEY CAN HAVE MORE TIME
TO REVIEW US PROPOSAL IN PREPARATION FOR MAY 20-22 MEETING:
AFTER STUDYING DOCUMENT RECEIVED WITH ARTEM'YEV SEPT. 3
LETTER, US SIDE OF WG CONCLUDED AGREEMENT COULD NOT BE
REACHED ON STATEMENTS AS PROPOSED BUT PROBLEMS AT HAND
COULD BE RESOLVED BY LESS DETAILED STATEMENTS. WE
BELIEVE FOLLOWING DRAFT IMPLEMENTING PROCEDURES
UNCLASSIFIED

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ACCOMMODATE NEED FOR GUIDANCE AT THIS TIME:

US-USSR JOINT WORKING GROUP ON INTELLECTUAL PROPERTY,
TAKINGINTO ACCOUNT STATEMENT OF GUIDING PRINCIPLES ON

INTELLECTUAL PROPERTY AND TERMS OF REFERENCE APPROVED
NOVEMBER 30, 1973, HAS AGREED TO FOLLOWING IMPLEMENTING
PROCEDURES FOR USE IN NEGOTIATING INDIVIDUAL COOPERATIVE

ACTIVITIES. INTELLECTUAL PROPERTY PROVISIONS OF
AGREEMENTS FOR INDIVIDUAL COOPERATIVE ACTIVITIES WILL BE
NEGOTIATED ON CASE-BY-CASE BASIS, USING AS GUIDELINES
"STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL
PROPERTY" AND THESE "IMPLEMENTING PROCEDURES" WITH
UNDERSTANDING THAT THESE GUIDELINES MAY BE MODIFIED
DURING NEGOTIATIONS WHERE NECESSARY OR DESIRABLE.

1. STATEMENTS GOVERNING INVENTIONS

1.1 INVENTION ORIGINATED AS RESULT OF COOPERATIVE
ACTIVITIES OF PARTIES SHALL BE REPORTED EXPEDITIOUSLY
BY INVENTOR(S) IN "INVENTION DISCLOSURE" TO RESIDENT
WORKING GROUP CHAIRMAN OF THAT ACTIVITY INDICATING DATE
OF INVENTION DISCLOSURE, INVENTOR'S PERTINENT DATES
RELATIVE TO INVENTIVE ACTIVITY, AND ALL PERTINENT
INVENTIVE SUBJECT MATTER.

1.2 DURING EXCHANGE OF SCIENTIFIC AND TECHNICAL
INFORMATION SOVIET AND AMERICAN PARTIES IN ANY
COOPERATIVE ACTIVITY SHALL PROCEED ON ASSUMPTION
INFORMATION RELATING TO "INVENTION DISCLOSURE" MAY BE
PUBLISHED WORLDWIDE BY EITHER PARTY UPON APPLICATION FOR
PATENT OR INVENTOR'S CERTIFICATE BEING FILED IN EITHER
COUNTRY, OR UPON EITHER DECISION NEITHER PARTY INTENDS
TO FILE APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE,
OR EXPIRATION OF TIME PERIOD SET FORTH IN SECTION 1.4,
WHICHEVER IS EARLIER.

1.3 RESIDENT WORKING GROUP CHAIRMAN OF COOPERATIVE
ACTIVITY IN WHICH "INVENTION DISCLOSURE" ORIGINATED SHALL,
IN ANY EVENT, SEND TO NONRESIDENT CHAIRMAN OF WORKING
GROUP WITHIN THREE (3) MONTHS OF DATE OF RECEIPT OF
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"INVENTION DISCLOSURE" BY RESIDENT WORKING GROUP
CHAIRMAN: (A) COPY OF "INVENTION DISCLOSURE" AND (B)
INFORMATION AS TO WHETHER OR NOT APPLICATION FOR PATENT
OR INVENTOR'S CERTIFICATE HAS BEEN OR WILL BE FILED AND,
IF SO, ACTUAL OR INTENDED FILING DATE.

1.4 EACH PARTY SHALL DECIDE WHETHER APPLICATION FOR
PATENT OR INVENTOR'S CERTIFICATE IS TO BE FILED IN ITS
OWN COUNTRY. EACH PARTY IS RESPONSIBLE TO ENSURE PROMPT
TRANSMISSION OF ALL APPROPRIATE PAPERS AND PROPERLY
EXECUTED DOCUMENTS WHERE NECESSARY FOR FILING OF
APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE IN
OTHER PARTY'S COUNTRY. SUBJECT MATTER OF APPLICATION

MAY BE PUBLISHED BY EITHER PARTY AFTER ANY FILING OR, IN
ABSENCE OF ANY FILING, AFTER THREE MONTHS FROM RECEIPT OF

INVENTION DISCLOSURE BY NONRESIDENT WORKING GROUP
CHAIRMAN.

1.5. (A) ABSENT AGREEMENT TO CONTRARY, PARTY IN
WHOSE COUNTRY INVENTION IS MADE (HEREINAFTER FOR THIS
SECTION, FIRST PARTY) SHALL HAVE INITIAL OPTION TO
ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO SUCH
INVENTIONS IN THIRD COUNTRIES, SUBJECT TO GRANT TO OTHER
PARTY (HEREINAFTER FOR THIS SECTION, SECOND PARTY) OF
NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH
RIGHT TO GRANT SUBLICENSES FOR SUCH INVENTIONS IN SUCH
COUNTRIES. IF FIRST PARTY DECLINES TO EXERCISE THIS
OPTION, SECOND PARTY SHALL HAVE RIGHT TO ACQUIRE RIGHT,
TITLE AND INTEREST IN SUCH INVENTIONS IN SUCH THIRD
COUNTRIES. EACH PARTY IS RESPONSIBLE TO ENSURE PROMPT
TRANSMISSION OF ALL APPROPRIATE PAPERS AND PROPERLY
EXECUTED DOCUMENTS WHERE NECESSARY FOR OTHER PARTY TO
FILE APPLICATIONS FOR PATENTS OR INVENTORS' CERTIFICATES
AND TO ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO
SUCH INVENTIONS IN THIRD COUNTRIES. EACH PARTY SHALL
NOTIFY OTHER PARTY OF COUNTRIES WHERE APPLICATION(S) FOR
PATENTS OR INVENTORS' CERTIFICATES HAVE BEEN FILED,
STATUS THEREOF, AND INFORMATION RELATING TO ISSUANCE OR
REJECTION OF APPLICATION(S) FOR PATENTS OR INVENTORS'
CERTIFICATES IN ANY THIRD COUNTRY PATENT OFFICE AND, IN
UNCLASSIFIED

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CASE OF ISSUANCE, SCOPE THEREOF.

1.5. (B) FIRST PARTY SHALL NOTIFY SECOND PARTY
WITHIN SIX (6) MONTHS FROM DATE OF FILING APPLICATION
FOR PATENT OR INVENTOR'S CERTIFICATE IN ITS OWN COUNTRY,
WHETHER OR NOT FIRST PARTY HAS FILED OR INTENDS TO FILE
FOR AND ACQUIRE ALL RIGHT, TITLE AND INTEREST IN AND TO
SUCH INVENTIONS IN THIRD COUNTRIES AND IF SO, ACTUAL OR
INTENDED FILING DATES AND LISTING OF THIRD COUNTRIES
SELECTED FOR FILING. THEREAFTER SECOND PARTY SHALL HAVE
RIGHT TO FILE IN ANY THIRD COUNTRY NOT LISTED BY FIRST
PARTY.

1.6 IF PARTY FILING APPLICATION FOR PATENT DECLINES
TO MAINTAIN APPLICATION OR RESULTING PATENT IN FORCE IN
A THIRD COUNTRY, IT SHALL INFORM OTHER PARTY AT LEAST
THREE (3) MONTHS PRIOR TO EXPIRATION DATE FOR PAYMENT
OF MAINTENANCE FEES AND SHALL TRANSFER OWNERSHIP OF
APPLICATION OR RESULTING PATENT TO OTHER PARTY, IF
REQUESTED, WITH RESERVATION TO PARTY FILING FOR PATENT
OF NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH
RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTION IN SUCH

COUNTRIES.

1.7 IN SITUATIONS WHERE BOTH PARTIES HAVE LICENSING RIGHTS IN THIRD COUNTRIES, THESE PARTIES MAY AGREE ON LICENSING ARRANGEMENTS.

2. STATEMENTS GOVERNING MATERIALS SUBJECT TO COPYRIGHT

2.1 EACH PARTY SHALL GRANT TO OTHER PARTY ROYALTY-FREE LICENSE TO MAKE COPIES, AND TO MAKE TRANSLATION, OF COPYRIGHTED MATERIALS, WHICH HAVE DIRECT RELATIONSHIP TO COOPERATIVE ACTIVITIES, AND ARE OWNED OR CONTROLLED BY A PARTY AT COMMENCEMENT OF PARTICULAR COOPERATIVE ACTIVITIES OR ACQUIRED BY A PARTY THROUGH RELATED INDEPENDENT CONCURRENT WORK, FOR USE IN THOSE COOPERATIVE ACTIVITIES ONLY.

2.2 IN ABSENCE OF AGREEMENT BY PARTIES NOT TO SEEK COPYRIGHT FOR ANY COPYRIGHTABLE MATERIAL RESULTING FROM UNCLASSIFIED

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COOPERATIVE ACTIVITIES, PARTY IN WHOSE COUNTRY MATERIAL IS CREATED SHALL HAVE FIRST OPTION TO CLAIM COPYRIGHT, SUBJECT TO GRANT OF RIGHTS TO OTHER PARTY AS SPECIFIED IN SECTION 2.5. IF PARTY HAVING FIRST OPTION DECIDES NOT TO CLAIM COPYRIGHT, OTHER PARTY MAY CLAIM COPYRIGHT, SUBJECT TO GRANT OF RIGHTS TO OTHER PARTY AS SPECIFIED IN SECTION 2.5.

2.3 AUTHOR(S) OF COPYRIGHTABLE MATERIAL ORIGINATED AS RESULT OF COOPERATIVE ACTIVITIES OF PARTIES SHALL FORWARD EXPEDITIOUSLY TWO (2) COPIES TO RESIDENT WORKING GROUP CHAIRMAN OF THAT ACTIVITY.

2.4 RESIDENT WORKING GROUP CHAIRMAN OF THAT ACTIVITY SHALL SEND TO NONRESIDENT CHAIRMAN OF WORKING GROUP TWO (2) COPIES OF COPYRIGHTABLE MATERIAL WITHIN THREE (3) MONTHS OF DATE OF RECEIPT FROM AUTHOR(S) WITH STATEMENT INDICATING WHETHER PARTY IN WHOSE COUNTRY MATERIAL IS CREATED INTENDS TO SECURE COPYRIGHT IN SUCH MATERIAL.

2.5 PARTY SECURING COPYRIGHT SHALL ASSIGN TO OTHER PARTY ALL RIGHTS TO SUCH COPYRIGHT IN OTHER PARTY'S COUNTRY. IN ALL OTHER COUNTRIES, PARTY SECURING COPYRIGHT SHALL GRANT ROYALTY-FREE LICENSE TO OTHER PARTY TO MAKE AND PUBLISH COPIES OF COPYRIGHTED MATERIAL AND TO MAKE AND PUBLISH ACCURATE AND FAITHFUL TRANSLATIONS OF COPYRIGHTED MATERIAL.

2.6 IN ORDER TO ASCERTAIN ACCURACY OF PUBLISHED TRANSLATIONS, PARTY MAKING TRANSLATION OF MATERIAL ORIGINALLY PREPARED BY OTHER PARTY SHALL FORWARD TWO

(2) COPIES OF TRANSLATED MATERIAL TO OTHER PARTY BEFORE

PUBLICATION. PARTY ORIGINALLY PREPARING MATERIAL SHALL
MAKE ANY SUGGESTIONS FOR CORRECTION OF TRANSLATION WITHIN
THREE (3) MONTHS OF RECEIPT OF COPIES OF TRANSLATION.
THESE SUGGESTIONS ARE ADVISORY ONLY, BUT THEY SHOULD BE
ACCEPTED WHERE FEASIBLE.

3. STATEMENTS GOVERNING INTELLECTUAL PROPERTY
DISAGREEMENTS
UNCLASSIFIED

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3.1 DISAGREEMENT ARISING DURING COOPERATIVE ACTIVITY
RELATING TO APPLICATION OF STATEMENT OF GUIDING PRINCIPLES
ON INTELLECTUAL PROPERTY AND THESE IMPLEMENTING
PROCEDURES WILL BE RESOLVED BY NEGOTIATIONS BETWEEN
WORKING GROUP CHAIRMEN IN WHOSE ACTIVITY DISAGREEMENT
AROSE.

3.2 WORKING GROUP CHAIRMEN OF COOPERATIVE ACTIVITY
CAN RESORT TO PROCEDURE OF CONCILIATION BY TURNING TO
JOINT WORKING GROUP ON INTELLECTUAL PROPERTY.

3.3 IF DISAGREEMENT ARISES RELATING TO AGREED TO
INTELLECTUAL PROPERTY PROVISIONS IN COOPERATIVE ACTIVITY
AND CONCILIATION PROCEDURE WAS NOT UNDERTAKEN, OR DID NOT
LEAD TO SOLUTION OF DISAGREEMENT, DISAGREEMENT WILL BE
RESOLVED BY ARBITRATION BY AN ARBITRATION BOARD OF THREE
ARBITRATORS, ONE SELECTED BY EACH OF PARTIES AND THIRD
ARBITRATOR SELECTED BY THESE TWO ARBITRATORS AND
MUTUALLY ACCEPTABLE TO THEM. DECISION BY MAJORITY OF
ARBITRATORS SHALL BE FINAL.

4. STATEMENT GOVERNING FURTHER PROCEDURES

4.1 JOINT WORKING GROUP ON INTELLECTUAL PROPERTY
WILL CONTINUE TO WORK OUT FURTHER PROCEDURES TO RESOLVE
ISSUES RELATING TO INTELLECTUAL PROPERTY MATTERS WITHIN
FRAMEWORK OF STATEMENT OF GUIDING PRINCIPLES ON
INTELLECTUAL PROPERTY AND THESE IMPLEMENTING PROCEDURES.
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<< END OF DOCUMENT >>

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